IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

RP.No. 589 of 2007()

AGAINST THE ORDER IN CRP.1509/2001 Dated 07/02/2007
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REVIEW PETITIONERS/RESPONDENTS
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1. M/S.CAR CHOICE, A PARTNERSHIP FIRM,
DOING BUSINESS AT DOOR NO.35/281-A,
MAMANGALAM, PALARIVATTOM P.O., KOCHI-35.

2. R.SADASIVAN, S/O.T.A.RAMAN, SIVASREE,
JANATHA ROAD, VYTTILA, KOCHI-19.

3. P.K.HARSHAN, S/O.P.K.KARUPPAN,
POONTHODATH HOUSE, EROOR P.O.,
TRIPUNITHURA, NADAMA VILLAGE, KANAYANOOR
TALUK.

BY ADV. SRI.V.N.GOPINATHAN

RESPONDENTS: REVISION PETITIONER

M.R.NANDAGOPAN, S/O.RAMAN, AGED 66,
AYYAKULATH HOUSE, MAMANGALAM KARA,
PALARIVATTOM P.O., EDAPPALLY SOUTH VILLAGE,
KANAYANNOOR TALUK.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.SURESH

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.R.UDAYABHANU,JJ.

R.P.No. 589 of 2007
in C.R.P.No.1509 of 2001

Dated this the 23rd day of July, 2007

O R D E R

Kurian Joseph,J.

This is a petition at the instance of the tenants/respondents to review the order dated 7th February 2007 in C.R.P.No.1509/2001. The landlord moved the Rent Control Court under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965. That ultimately was rejected by this court as per the order in the Civil Revision Petition. However, taking note of the fact that the rent was originally fixed in 1997 at Rs.1090/- per month, this court made a tentative arrangement of the rent at Rs.2500/- per month giving liberty to the landlord to approach the Rent Controller for fixation of fair rent. It is the contention of the review petitioners that fixation of rent was not an issue at all before this court. It is further submitted that all other similarly situated tenants are paying far less than what has been fixed by this court. Still further, it is contended that going by the norms under Section 5 of the Kerala Buildings (Lease and Rent Control)

Act, the rent will be much less than what is now fixed by this court.

2. Section 5 of the Act gives liberty to the Rent Controller for fixation of fair rent. We make it clear that this court has not fixed the rent at Rs.2500/-. It is only a temporary arrangement. It will be open to the review petitioners to approach the Rent Controller and establish that the fair rent will not be as proposed by this court. Equally, it is also open to the landlord-respondent in the review petition to approach the Rent Controller for appropriate fixation. As held by the Supreme Court and this Court in umpteen number of cases, even if the issue of fair rent fixation does not arise in a given case, taking note of the interests of justice and fairness it is open to this court to tentatively fix the rent in appropriate cases and that is all what is done by this court. By way of abundant caution we make it clear that this court has not fixed the rent since it was not possessed of the wherewithals for the same. It is for the Rent Controller to fix the fair rent. Therefore, the amount as mentioned in the order sought to be reviewed, ie. Rs.2500/-, is only a provisional

and temporary arrangement which the review petitioners/tenants are to pay until the fair rent is duly fixed by the Rent Controller for which as already noted above, the review petitioners/tenants as well as the respondent/landlord are entitled to approach the Rent Controller. In the event of the parties thus approaching the Rent Controller, the payments already made pursuant to the order passed by this court will be duly adjusted depending on the order thus passed by the Rent Controller.

The review petition is accordingly dismissed.

(KURIAN JOSEPH, JUDGE)

(K.R.UDAYABHANU, JUDGE)

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